

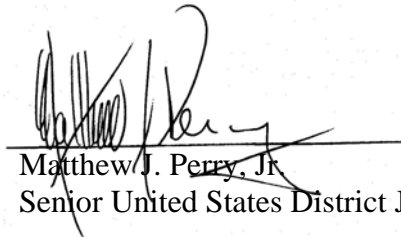
recommendation has no presumptive weight and the responsibility for making a final determination remains with this Court. Matthews v. Weber, 423 U.S. 261, 270-271 (1976).

With regard to Plaintiff's instant action, the Magistrate Judge recommends the District Court dismiss the complaint *without prejudice* and without issuance and service of process. The Magistrate Judge recommends dismissal pursuant to the Younger abstention doctrine, as articulated by the United States Supreme Court in Younger v. Harris, 401 U.S. 37 (1971). Under Younger, a federal court should abstain from exercising jurisdiction over a case, when hearing the case would potentially intrude upon the powers of another court, *unless* extraordinary circumstances so warrant. Id. To aid in a federal court's determination of when abstention is appropriate, the Supreme Court has established the following three-pronged test: Abstention is appropriate if there are (1) ongoing state judicial proceedings; (2) the proceedings implicate important state interests; and (3) there is an adequate opportunity to raise federal claims in the state proceedings. Martin Marietta Corp. V. Maryland Comm'n on Human Relations, 38 F.3d 1392, 1396 (4th Cir. 1994) (citing Middlesex County Ethics Comm'n v. Garden State bar Ass'n, 457 U.S. 423, 432 (1982)).

Both Plaintiff's complaint and Plaintiff's objections to the Magistrate Judge's Report and Recommendation state that there is a pending action in the state family court to terminate his parental rights. Therefore, this Court finds that the requirements for abstention under Younger are satisfied. In his objections to the Magistrate Judge's Report and Recommendation, Plaintiff has failed to set forth additional facts to persuade this Court that extraordinary circumstances exist warranting an exercise of jurisdiction pursuant to 28 U.S.C. § 1331 or 28 U.S.C. § 1367.

Having reviewed the entirety of this case, including the Magistrate's Report and Recommendation, and Plaintiff's objections, this Court approves the recommendation of the magistrate. This action is hereby **DISMISSED** without prejudice.

IT IS SO ORDERED.



Matthew J. Perry, Jr.
Senior United States District Judge

April 15, 2008

Columbia, South Carolina